



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Case No. 13MJ8185

Plaintiff,

12 | v.

13 | Manuel GONZALES,

Defendant

FINDINGS OF FACT AND ORDER OF DETENTION

In accordance with Title 18 U.S.C. § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141, et seq.), a detention hearing was held on March 18, 2013, to determine whether defendant Manuel GONZALES, should be held in custody pending trial on the grounds he poses a danger to the community and is a risk of flight. Assistant U.S. Attorney Matthew Brehm appeared on behalf of the United States. James Johnson of Federal Defenders of San Diego, Inc. appeared on behalf of Defendant.

22 Based on the evidence proffered by the United States and Defendant, the
23 Pretrial Services report, and the criminal complaint issued against Defendant on
24 March 12, 2013, by this Court, the Court concludes the following facts establish by clear
25 and convincing evidence that no condition or combination of conditions will reasonably
26 assure the safety of the community.

I

FINDINGS OF FACT

A. Nature and Circumstances of the Offense Charged 18 U.S.C. §3142(g)(1):

4 1. On March 12, 2011, a complaint was filed in the Southern District of
5 California charging Defendant with Enticement of a Minor, in violation of Title 18
6 U.S.C. § 2422(b).

7 2. The offense carries with it a sentence up to life imprisonment and a
8 mandatory term not less than 10 years. See, 18 U.S.C. § 2422(b). According to the
9 United States Sentencing Guidelines, the Base Offense Level is 32. See, § 2G1.3. The
10 Defendant's criminal history score places him in Criminal History Category I. As a
11 result, the sentencing range for the Defendant is 121-151 months in prison.

12 3. Thus, there arises a presumption that no condition or combination of
13 conditions will reasonably assure the safety of the community. See, 18 U.S.C.
14 § 3142 (e)(3)(E).

B. Weight of the Evidence Against the Defendant 18 U.S.C. § 3142(g)(2):

16 1. Federal Bureau of Investigation arrested Defendant on an Arrest
17 Warrant based on a complaint charging Defendant with Enticement of a Minor, in
18 violation of Title 18 U.S.C. § 2422(b).

C. History and Characteristics of the Defendant 18 U.S.C. § 3142(g)(3):

20 | 1. Defendant is a United States citizen.

21 || 2. Defendant resides in Heber, California.

22 3. Defendant works for the California Department of Corrections as a
23 Corrections Officer.

D. Nature and Seriousness of Danger Posed by Release 18 U.S.C. § 3142(g)(4):

26 1. The crime charged is an offense triggering the presumption under 18
27 U.S.C. § 3142(e).

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1 2. The government proffered evidence to suggest that release of
2 Defendant would pose a danger to the victim of the crime and the community.
3 Defendant actively solicited encounters with the minor. Defendant met with the minor
4 and engaged in sexual activity with him on three occasions. The minor told agents that
5 he believed he told Defendant that he was 15 years old.

6 || 3. Defendant has no criminal history.

III

REASONS FOR DETENTION

9 A. There is probable cause to believe that Defendant committed the offense
10 charged in Case Number 13MJ8185, charging Defendant with Enticement of a Minor,
11 in violation of Title 18 U.S.C. § 2422(b).

12 B. The Court finds the Defendant has failed to rebut the 3142(e) presumption.
13 This Court views the Defendant as a danger to the community.

14 C. Therefore, the Court finds the Government has sustained its burden of
15 demonstrating, by clear and convincing evidence, that Defendant is a danger to the
16 community, and that there are no conditions or combination of conditions that would
17 ensure the safety of others and the community.

III

ORDER

IT IS HEREBY ORDERED Defendant be detained pending trial in this matter.

IT IS FURTHER ORDERED Defendant be committed to the custody of the Attorney General, or his designated representative, for confinement in a correctional facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded reasonable opportunity for private consultation with counsel.

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While in custody, upon order of a court of the United States, or upon the request of an attorney for the United States, the person in charge of the correctional facility shall deliver Defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding or any other appearance stipulated to by defense and government counsel.

THIS ORDER IS ENTERED WITHOUT PREJUDICE.

IT IS SO ORDERED.

DATED: 3-21-2013


HON. PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

Prepared by:

LAURA E. DUFFY
United States Attorney

MATTHEW BREHM
ASSISTANT U.S. ATTORNEY

cc: James Johnson
Federal Defenders of San Diego, Inc.